

AMENDED IN ASSEMBLY AUGUST 17, 2004

AMENDED IN ASSEMBLY JULY 15, 2004

AMENDED IN ASSEMBLY JUNE 14, 2004

AMENDED IN SENATE MAY 13, 2004

SENATE BILL

No. 1544

Introduced by Senator Figueroa
(Coauthors: Senators Aanestad and Vincent)
(Coauthors: Assembly Members Correa, Nation, and Runner)

February 19, 2004

An act to amend ~~Section 94999 of, and Sections 94739, 94931, and 94999 of, to add Section 94742.3 to, to add and repeal Section 94779.2 of, to repeal Section 94742.2 of, and to repeal Chapter 3 (commencing with Section 94301) of Part 59 of, the Education Code, relating to private postsecondary education, and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1544, as amended, Figueroa. Private postsecondary education: Private Postsecondary and Vocational Education Reform Act of 1989.

(1) Existing law, known as the Private Postsecondary and Vocational Education Reform Act of 1989, generally sets minimum standards of instructional quality, ethical and business practices, health and safety, and fiscal responsibility for private postsecondary and vocational educational institutions, as defined. The act establishes the Bureau for Private Postsecondary and Vocational Education, which, among other things, is required to review and investigate all institutions, programs, and courses of instruction approved under the act. A provision of the act provides for its repeal on January 1, 2005.

The existing act establishes the Private Postsecondary and Vocational Education Administration Fund and the continuously appropriated Student Tuition Recovery Fund. The existing act specifies that certain violations of its provisions are subject to civil penalties and that certain willful violations of the act are punishable as crimes.

This bill would *make a technical revision to delete obsolete provisions of a predecessor act.*

The bill would revise the definition of “private postsecondary educational institution,” as used in the act, to exclude institutions exclusively offering programs that cost \$500 or less. The bill would delete the definition in the act of “short-term seminar training.”

The bill would require the Director of Consumer Affairs to appoint a Bureau of Private Postsecondary and Vocational Education Operations and Administrative Monitor by January 3, 2005. The bill would require the monitor to, among other things, assess the bureau’s administrative operations and to submit a report to the director, the bureau, and the Legislature by October 1, 2005. Those monitor provisions would become inoperative on April 1, 2006, and would be repealed as of January 1, 2007.

The bill would define “short-term educational programs,” and would require registration under the act to offer those programs.

The bill would appropriate \$150,000 from the Private Postsecondary and Vocational Education Administration Fund to the Director of Consumer Affairs for expenditure for the 2004–05, 2005–06, and 2006–07 fiscal years for the purpose of contracting for the employment of the monitor.

This bill would also require the act to become inoperative on July 1, 2007, and thereafter be repealed on January 1, 2008, thus extending operation of the act by 2½ years, and thereby making an appropriation by extending the existence of the continuously appropriated Student Tuition Recovery Fund.

By extending the operation of the provisions of the act that establish crimes, the bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.



Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. *Chapter 3 (commencing with Section 94301) of*
2 *Part 59 of the Education Code is repealed.*

3 SEC. 2. *Section 94739 of the Education Code is amended to*
4 *read:*

5 94739. (a) “Private postsecondary educational institution”
6 means any person doing business in California that offers to
7 provide or provides, for a tuition, fee, or other charge, any
8 instruction, training, or education under any of the following
9 circumstances:

10 (1) A majority of the students to whom instruction, training, or
11 education is provided during any 12-month period is obtained
12 from, or on behalf of, students who have completed or terminated
13 their secondary education or are beyond the age of compulsory
14 high school attendance.

15 (2) More than 50 percent of the revenue derived from providing
16 instruction, training, or education during any 12-month period is
17 obtained from, or on behalf of, students who have completed or
18 terminated their secondary education or are beyond the age of
19 compulsory high school attendance.

20 (3) More than 50 percent of the hours of instruction, training,
21 or education provided during any 12-month period is provided to
22 students who have completed or terminated their secondary
23 education or are beyond the age of compulsory high school
24 attendance.

25 (4) A substantial portion, as determined by the council, by
26 regulation, of the instruction, training, or education provided is
27 provided to students who have completed or terminated their
28 secondary education or are beyond the age of compulsory high
29 school attendance.

30 (b) The following are not considered to be private
31 postsecondary educational institutions under this chapter:

32 (1) Institutions exclusively offering instruction at any or all
33 levels from preschool through the 12th grade.

1 (2) Institutions offering education solely avocational or
2 recreational in nature, and institutions offering this education
3 exclusively.

4 (3) Institutions offering education sponsored by a bona fide
5 trade, business, professional, or fraternal organization, solely for
6 that organization's membership.

7 (4) Postsecondary or vocational educational institutions
8 established, operated, and governed by the federal government or
9 by this state, or its political subdivisions.

10 (5) Institutions offering continuing education where the
11 institution or the program is approved, certified, or sponsored by
12 any of the following:

13 (A) A government agency, other than the bureau, that licenses
14 persons in a particular profession, trade, or job category.

15 (B) A state-recognized professional licensing body, such as the
16 State Bar of California, that licenses persons in a particular
17 profession, trade, or job category.

18 (C) A bona fide trade, business, or professional organization.

19 (6) A nonprofit institution owned, controlled, and operated and
20 maintained by a bona fide church, religious denomination, or
21 religious organization comprised of multidenominational
22 members of the same well-recognized religion, lawfully operating
23 as a nonprofit religious corporation pursuant to Part 4
24 (commencing with Section 9110) of Division 2 of Title 1 of the
25 Corporations Code, if the education is limited to instruction in the
26 principles of that church, religious denomination, or religious
27 organization, or to courses offered pursuant to Section 2789 of the
28 Business and Professions Code, and the diploma or degree is
29 limited to evidence of completion of that education, and the
30 meritorious recognition upon which any honorary degree is
31 conferred is limited to the principles of that church, religious
32 denomination, or religious organization. Institutions operating
33 under this paragraph shall offer degrees and diplomas only in the
34 beliefs and practices of the church, religious denomination, or
35 religious organization. The enactment of this paragraph expresses
36 the legislative intent that the state shall not involve itself in the
37 content of degree programs awarded by any institution operating
38 under this paragraph, as long as the institution awards degrees and
39 diplomas only in the beliefs and practices of the church, religious
40 denomination, or religious organization. Institutions operating

1 under this paragraph shall not award degrees in any area of
2 physical science. Any degree or diploma granted in any area of
3 study under these provisions shall contain on its face, in the written
4 description of the title of the degree being conferred, a reference
5 to the theological or religious aspect of the degree's subject area.
6 Degrees awarded under this paragraph shall reflect the nature of
7 the degree title, such as "associate of religious studies," or
8 "bachelor of religious studies," or "master of divinity" or
9 "doctor of divinity." The use of the degree titles "associate of
10 arts" or "associate of science," "bachelor of arts" or "bachelor
11 of science," "master of arts" or "master of science," or "doctor
12 of philosophy" or "Ph.D." shall only be awarded by institutions
13 approved to operate under Article 8 (commencing with Section
14 94900) or meeting the requirements for an exemption under
15 Section 94750. The enactment of this paragraph is intended to
16 prevent any entity claiming to be a nonprofit institution owned,
17 controlled, and operated and maintained by a bona fide church,
18 religious denomination, or religious organization comprised of
19 multid denominational members of the same well-recognized
20 religion, lawfully operating as a nonprofit religious corporation
21 pursuant to Part 4 (commencing with Section 9110) of Division 2
22 of Title 1 of the Corporations Code, from marketing and granting
23 degrees or diplomas that are represented as being linked to their
24 church, religious denomination, or religious organization, but
25 which, in reality, are degrees in secular areas of study. An
26 institution operating under this paragraph shall file annually with
27 the council evidence to demonstrate its status as a nonprofit
28 religious corporation under the Corporations Code. A college or
29 university operating under this paragraph shall file annually with
30 the council evidence to demonstrate its status as a nonprofit
31 religious corporation under the Corporations Code.

32 (7) (A) Public institutions accredited by the Accrediting
33 Commission for Senior Colleges and Universities or the
34 Accrediting Commission for Community and Junior Colleges of
35 the Western Association of Schools and Colleges.

36 (B) Institutions accredited by the Accrediting Commission for
37 Senior Colleges and Universities or the Accrediting Commission
38 for Community and Junior Colleges of the Western Association of
39 Schools and Colleges that are incorporated and lawfully operating
40 as a nonprofit public benefit corporation pursuant to Part 2

(commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code and that are not managed by any entity for profit.

(C) For-profit institutions accredited by the Accrediting Commission for Senior Colleges and Universities or the Accrediting Commission for Community and Junior Colleges of the Western Association of Schools and Colleges.

(D) Institutions accredited by the Western Association of Schools and Colleges that do not meet all of the criteria in subparagraph (B) and that are incorporated and lawfully operating as a nonprofit public benefit corporation pursuant to Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code, that have been in continuous operation since April 15, 1997, and that are not managed by any entity for profit. Notwithstanding this subdivision, institutions that meet the criteria in this subparagraph shall be subject to Section 94831, except subdivision (c) of that section, and Sections 94832, 94834, 94838, and 94985.

(8) *Institutions that exclusively offer programs that cost five hundred dollars (\$500) or less.*

SEC. 3. *Section 94742.2 of the Education Code is repealed.*

~~94742.2. (a) “Short-term seminar training” means an educational service offered at a main location, branch, or satellite, or any other location, consisting of 100 hours or less of instruction, the total charge for which is less than one thousand dollars (\$1,000).~~

~~(b) “Short-term seminar training” does not include any of the following:~~

~~(1) Instruction leading to a degree.~~

~~(2) Instruction financed by a federal or state loan or grant.~~

~~(3) Instruction in how to prepare for, take, or pass a licensing examination or other test qualifying a person for employment.~~

~~(4) Instruction that is represented to lead to an occupation or job title.~~

~~(5) Any educational service consisting of more than 100 hours of instruction or costing one thousand dollars (\$1,000) or more in total charges that is divided or structured into one or more segments that consist of 100 or fewer hours of instruction, the total charge for which is less than one thousand dollars (\$1,000).~~

~~(c) Short-term seminar training may include an educational service licensed by another state agency so long as that educational service complies with subdivision (a) and Article 9.5 (commencing with Section 94931).~~

SEC. 4. Section 94742.3 is added to the Education Code, to read:

94742.3. "Short-term education program" means an educational service meeting all of the following criteria:

(a) The total charge to the student is more than five hundred dollars (\$500) and not more than two thousand dollars (\$2,000).

(b) The length of training is 250 hours or less.

(c) The service is not any of the following:

(1) Instruction leading to a degree.

(2) Instruction financed by a federal or state loan or grant.

(3) Any educational service that was originally longer than 250 hours or cost more than two thousand dollars (\$2,000), but has been structured into segments to meet the requirement of subdivision (a).

(c) The service is offered by approved institutions or institutions registered pursuant to Article 9.5 (commencing with Section 94931).

SEC. 5. Section 94779.2 is added to the Education Code, to read:

94779.2. (a) (1) The Director of Consumer Affairs shall appoint a Bureau for Private Postsecondary and Vocational Education Operations and Administrative Monitor no later than January 3, 2005. The director may retain a person for this position by a personal services contract. In this connection, the Legislature finds, pursuant to Section 19130 of the Government Code, that this is a new state function.

(2) The director shall supervise the operations monitor and may terminate or dismiss him or her from this position.

(b) The director shall advertise the availability of this position. The requirements for this position shall include experience in conducting investigations, familiarity with state laws, rules, and procedures pertaining to the bureau, and familiarity with relevant administrative procedures.

(c) (1) The operations monitor shall assess the bureau's administrative operations, including its school approval, applicant review, revenue collection, and complaint and enforcement

1 processes and procedures with the primary goals of improving the
2 bureau's overall efficiency, improving its effectiveness, and
3 improving its compliance with state laws, particularly with respect
4 to the bureau's approval, complaint, and enforcement processes.

5 (2) This monitoring duty shall be on a continuing basis for a
6 period of no more than two years from the date of the operations
7 monitor's appointment and shall include, but not necessarily be
8 limited to, all of the following:

9 (A) Assessing the bureau's revenue collections and needs, and
10 its staffing.

11 (B) Evaluating the relevant laws and regulations to identify
12 revisions that would improve state regulation and maintain or
13 improve student and public protection.

14 (C) Improving the quality and consistency of the bureau's
15 processes and performance, including complaint processing and
16 investigation, and reducing timeframes for each.

17 (D) Reducing any complaint backlog.

18 (E) Ensuring consistency in the application of sanctions or
19 discipline imposed on regulated institutions and persons.

20 (F) Improving the quality and timeliness of application and
21 approval processes for regulated institutions and persons, the
22 collection of fees, and the collection of information from, and the
23 ability to disseminate information regarding, those entities or
24 persons regulated by the bureau.

25 (G) Improving the bureau's ability to perform outreach to
26 prospective students of private postsecondary and vocational
27 educational institutions.

28 (3) The operations monitor shall exercise no authority over the
29 bureau's management or staff; however, the bureau and its staff
30 shall cooperate with him or her, and shall provide data,
31 information, and files as requested by the monitor to perform all
32 of his or her duties.

33 (4) The director shall assist the operations monitor in the
34 performance of his or her duties, and the operations monitor shall
35 have the same investigative authority as the director.

36 (d) The operations monitor shall submit an initial written report
37 of his or her findings and conclusions to the director, the bureau,
38 and the Legislature no later than October 1, 2005, and every six
39 months thereafter, and shall be available to make oral reports to
40 each if requested to do so. The operations monitor may also

provide additional information to either the department or the Legislature at his or her discretion or at the request of either the department or the Legislature. The operations monitor shall make his or her reports available to the public and the media. The operations monitor shall make every effort to provide the department and the bureau with an opportunity to reply to any facts, finding, issues, or conclusions in his or her reports with which the department or the bureau may disagree.

(e) The bureau shall reimburse the department for all of the costs associated with the employment of an operations manager.

(f) This section shall become inoperative on April 1, 2006, and, as of January 1, 2007, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2.—

SEC. 6. Section 94931 of the Education Code is amended to read:

94931. (a) No private postsecondary educational institution, except those offering degrees and approved under Article 8 (commencing with Section 94900) or offering vocational and nondegree granting programs and approved under Article 9 (commencing with Section 94915), or those that are exempt from this chapter, may offer educational services or programs *or short-term educational programs* unless the institution has been registered by the bureau as meeting the requirements of this ~~section~~ *article*.

(b) An institution approved to offer degrees under Article 8 (commencing with Section 94900) or approved to offer vocational and nondegree granting programs under Article 9 (commencing with Section 94915) may offer registered *short-term education* programs without affecting its status under either of those articles so long as the registered *short-term education* program is disclosed in its approval to operate application or the institution completes a registration application and receives specific authorization for the program, maintains compliance for all registered programs in conformity with this article, and maintains a set of student records for registered programs separate from its approved programs. Any registered institution that offers an educational program not specified in subdivision (c) or not otherwise exempt from this chapter shall be approved under Article 8 (commencing with

1 Section 94900) or Article 9 (commencing with Section 94915) and
2 shall comply with this chapter.

3 (c) Except as otherwise provided in this article, this chapter
4 does not apply to an educational service that qualifies for
5 registration status and that complies with this article. The
6 educational services that qualify for registration status are limited
7 to:

8 (1) An educational service, as defined in Section 94733, that is
9 offered to provide an intensive English language program.

10 (2) An educational service, as defined in Section 94742.1, that
11 is offered to provide short-term career training.

12 (3) An educational service, as defined in Section 94742.2, that
13 is offered to provide short-term seminar training.

14 (4) An educational service that is offered to assist students to
15 prepare for an examination for licensure, except as provided in
16 Section 94787.

17 (5) An educational service that consists of continuing
18 education not otherwise exempt from this chapter.

19 (d) An institution that qualifies under any of paragraphs (1) to
20 (4), inclusive, of subdivision (c) shall complete a registration form
21 provided by the bureau, including a signed declaration by the chief
22 executive officer of the institution under penalty of perjury, and
23 provide all of the following information for public disclosure:

24 (1) The owner's legal name, headquarters address, and the
25 name of an agent for the service of process within California.

26 (2) All names, whether real or fictitious, under which the owner
27 is doing and will do business.

28 (3) The names and addresses of the principal officers of the
29 institution.

30 (4) A list of all California locations at which the institution
31 operates, its offerings, and, if previously registered, the number of
32 students enrolled in California during the preceding year.

33 (5) A copy of the registration form or agreement that enrolls the
34 student in the educational service that contains all of the following:

35 (A) The name and address of the location where instruction
36 will be provided.

37 (B) The title of the educational program.

38 (C) The total amount the student is obligated to pay for the
39 educational service.

1 (D) A clear and conspicuous statement that the enrollment
2 form or agreement is a legally binding instrument when signed by
3 the student and accepted by the institution.

4 (E) The refund policy developed by the institution unless this
5 article specifies a different refund policy.

6 (F) Unless this article specifies that the institution is required
7 to participate in the Student Tuition Recovery Fund, a statement
8 that the institution does not participate in that fund.

9 (G) In 10-point boldface type or larger, the following
10 statement: “Any questions or problems concerning this school that
11 have not been satisfactorily answered or resolved by the school
12 should be directed to the Bureau for Private Postsecondary and
13 Vocational Education in the Department of Consumer Affairs
14 (insert city, address, CA ZIP Code number, and telephone
15 number).”

16 (H) Schools approved under paragraph (1) of subdivision (c) of
17 Section 94931 shall also include with the statement required by
18 subparagraph (G) information referring the student to a consulate
19 of his or her country and the United States Immigration and
20 Naturalization Service.

21 (6) A brochure or catalog and a sample advertisement used to
22 promote the educational service.

23 (7) A copy of its certificate of completion.

24 (8) If the educational service offers short-term career training,
25 the institution shall comply with the requirements of Sections
26 94804 and 94806.

27 (9) If the institution assists students in obtaining financing from
28 a third party for the cost of the educational services at the
29 institution, a copy of the contract or finance agreement reflecting
30 that financing.

31 (e) The bureau shall establish the initial registration fee and the
32 annual fee to be paid by institutions registered under this article.
33 No institution shall be registered pursuant to this article unless it
34 has paid the appropriate fees required by the bureau. Upon receipt
35 of an institution’s initial application for registration for a program,
36 the bureau may conduct a site visit pursuant to subdivision (c) of
37 Section 94915.

38 (f) For the purposes of communication with other state
39 agencies, any organization or individual registered to offer

1 short-term seminar training may state that they are “authorized”
2 by the State of California.

3 (g) (1) Except as provided by subdivision (f), any institution
4 registered pursuant to this article shall be restricted to stating that
5 their training is “registered” with the State of California and is
6 prohibited from using the words “approval,” “approved,”
7 “approval to operate,” “approved to operate,” “authorized,”
8 “licensed,” or “licensed to operate.”

9 (2) The institution shall place the following statement in all
10 brochures, catalogues, enrollment agreements, and registration
11 forms, in a conspicuous location in at least 12-point boldfaced
12 type:

13 “We are registered with the State of California. Registration
14 means we have met certain minimum standards imposed by the
15 state for registered schools on the basis of our written application
16 to the state. Registration does not mean we have met all of the more
17 extensive standards required by the state for schools that are
18 approved to operate or licensed or that the state has verified the
19 information we submitted with our registration form.”

20 (h) The bureau may require, at least every three years following
21 the initial registration date, that a registered institution verify all
22 or part of the information required to be provided with the
23 registration form under subdivision (d).

24 (i) Sections 94812 and 94818, Sections 94822 to 94825,
25 inclusive, and Sections 94829 to 94838, inclusive, and Sections
26 94841 and 94846 shall apply to any institution registered pursuant
27 to this article.

28 (j) Article 1 (commencing with Section 94700), Article 2
29 (commencing with Section 94710), Article 3 (commencing with
30 Section 94750), Article 3.5 (commencing with Section 94760),
31 Article 4 (commencing with Section 94770), and Article 13
32 (commencing with Section 94950) shall apply to any institution
33 registered pursuant to this article.

34 *SEC. 7.* Section 94999 of the Education Code is amended to
35 read:

36 94999. This chapter shall become inoperative on July 1, 2007,
37 and, as of January 1, 2008, is repealed, unless a later enacted
38 statute, that becomes operative on or before January 1, 2008,
39 deletes or extends the dates on which it becomes inoperative and
40 is repealed.

~~SEC. 3.~~

SEC. 8. The sum of one hundred fifty thousand dollars (\$150,000) is hereby appropriated from the Private Postsecondary and Vocational Education Administration Fund, established pursuant to Section 94932 of the Education Code, to the Director of Consumer Affairs for expenditure for the 2004–05, 2005–06, and 2006–07 fiscal years for the purpose of contracting for the employment of a Bureau for Private Postsecondary and Vocational Education Operations and Administrative Monitor pursuant to Section 94779.2 of the Education Code.

~~SEC. 4.~~

SEC. 9. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.